

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: . Case No. 23-12825 (MBK)
LTL MANAGEMENT LLC, .
Debtor. . U.S. Courthouse
402 East State Street
Trenton, NJ 08608
.
LTL MANAGEMENT LLC, . Adv. No. 23-01092 (MBK)
Plaintiff, .
v. .
THOSE PARTIES LISTED ON .
APPENDIX A TO COMPLAINT AND .
JOHN AND JANE DOES 1-1000, .
Defendants. . Friday, June 2, 2023
. 11:27 a.m.

TRANSCRIPT OF DEBTOR'S MOTION TO COMPEL [604]; DEBTOR'S
OMNIBUS MOTION TO COMPEL [638]; DEBTOR'S MOTION
FOR A BRIDGE ORDER [147]
BEFORE THE HONORABLE MICHAEL B. KAPLAN
UNITED STATES BANKRUPTCY COURT JUDGE

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1 I don't believe there are other issues with respect
2 to the motion at Docket 604. If not, we can move to debtor's
3 omnibus motion to compel plaintiff's firm to supplement their
4 responses to interrogatories and document requests. I think
5 it's docketed at 638.

6 Mr. Torborg, are you up again?

7 MR. TORBORG: I am up again, Your Honor.

8 THE COURT: All right.

9 MR. TORBORG: Thank you. Again, David Torborg with
10 Jones Day on behalf of the debtor.

11 This is a motion directed at nine plaintiff law
12 firms. These law firms either represent individual members of
13 the TCC, have filed motions to dismiss on behalf of one or more
14 clients, or have otherwise been active in these proceedings.
15 I'd like to start with a little bit of histories because I
16 suspect this might be a little confusing.

17 Initially, we served Rule 33 interrogatories and
18 Rule 34 requests for production. Those discovery requests were
19 directed to certain plaintiff firms and their individual
20 clients. So, for example, the debtor's interrogatories to the
21 Arnold and Itkin firm were directed to Arnold and Itkin, LLP,
22 and Arnold and Itkin, LLP, acting for Arnold and Itkin talc
23 claimants. Some of the plaintiff firms to which we served this
24 discovery objected the discovery was improperly served on them,
25 claiming they were not parties to the motion to dismiss

1 proceeding. Nonetheless, many of the firms did respond to the
2 discovery albeit largely with relevancy and privilege
3 objections.

4 Given the objections to whether they were appropriate
5 parties, the debtor thereafter two days later served Rule 45
6 document subpoenas on these plaintiff firms and three others.
7 The debtor's motion seeks three categories of information.
8 First, we seek information on the total number of talc claims
9 against the debtor, filed and unfiled, for which the law firm
10 served as counsel. There should be no debate that the number
11 of talc claims faced by the debtor is relevant to the issue of
12 financial distress. Most of the firms responded simply that
13 the debtor already has information on the number of claims
14 filed against it.

15 That, of course, tells us nothing about the number of
16 unfiled claims. There's no good reason to withhold requested
17 information. It should not be hard to provide. Beasley Allen
18 and Maune Raichle identified the number of unfiled claims for
19 which they serve as counsel in response to the interrogatory.
20 One firm, the Barnes Law Group, argued that it cannot identify
21 how many unfiled claims it has because those claims have not
22 been fully investigated and evaluated. The TCC, which weighed
23 in on this motion, despite discovery not being directed to it,
24 makes the same point.

25 But we didn't ask how many claims will definitively

1 be filed. We asked the number of claims for which the law firm
2 serves as counsel. The fact that a claimant has sought counsel
3 concerning the possibility of asserting a claim is relevant to
4 the debtor's talc liability.

5 The TCC seems to argue that the number of claims or
6 potential claims from just nine plaintiff firms is not relevant
7 because there are more than a hundred firms that have such
8 claims. That may be so, but these firms have taken a
9 leadership role in this case and the information sought is
10 relevant.

11 The TCC further argues that the Court earlier this
12 week declined to order the discovery sought here. The Court
13 did no such thing. It certainly has not held that the number
14 of unfiled claims is irrelevant to the question of financial
15 distress in the motion to dismiss proceeding. Before I move to
16 the next issue, I would like to address again the suggestion
17 that the debtor should have filed this motion weeks ago
18 according to the TCC. Well, the discovery was not even served
19 until three weeks ago.

20 At the time we filed the motion, the responses that
21 came in were less than two weeks old. And unlike the TCC's
22 practice, we absolutely endeavor to follow the local rules,
23 meet and confer, send letters outlining our problems with it,
24 and propose compromises. There's no deadline to file the
25 motion. And, again, we filed this motion more than a month

1 to the doctor so I can do this hearing here in my kitchen?
2 Because they think we have to shorten time. And then they come
3 before you and they say to the Court, well, Judge, we've got a
4 whole nother month until the hearing. Those two things can't
5 be true, and you've got to put an end to it, Judge. You've got
6 to stop this.

7 Thank you. The motion should be denied.

8 THE COURT: All right. Thank you.

9 I have a question, Mr. Ruckdeschel. I'm going to ask
10 it of you, but I'm going to hear the answer from counsel for
11 the other firms for whom discovery is sought.

12 MR. RUCKDESCHEL: Of course.

13 THE COURT: If there is an interrogatory or if there
14 was a subpoena served on the firm with the intent of drawing
15 out information relevant to financial distress and the subpoena
16 sought information as to the number of clients who have
17 retained the firm to pursue claims for injuries due to use or
18 exposure to talcum powder sold or marketed or distributed by
19 J&J or its affiliate for which a lawsuit has not been filed,
20 why is that not relevant and why would it be privileged? It's
21 asking for a number. It's not asking for any communication.

22 MR. RUCKDESCHEL: Well, I can answer on behalf of
23 myself, Judge.

24 THE COURT: That's all I'm asking for at this point.

25 MR. RUCKDESCHEL: And it's easy for me because the

1 Ruckdeschel law firm is me and now my wife has reactivated her
2 license and she's working about halftime with me. God help
3 her.

4 But I only have a handful of cases. But what I can
5 tell you is, when clients come to my firm and they retain my
6 firm, the first thing we have to do is investigate. And we
7 investigate what their potential claims are, both in the tort
8 system and otherwise. We then investigate what we believe the
9 relative likelihood of success might be, right. We have to go
10 through all this process with these things, and then we have to
11 make a recommendation to our client as to what we believe the
12 best course of action is for them.

13 And then, and only then, do they then decide what
14 course of action is it that we're going to take. And I can
15 tell you that there are often months in between the time that a
16 client comes into my firm and retains my firm and the time that
17 we actually make a decision about what we're going to do
18 because the investigation takes a long time. And that's
19 particularly true in the case of people, women that come in
20 because their exposures are often secondhand, and so it takes
21 more time. And it's often true in the case of people that have
22 more complicated work histories and exposure histories. And
23 it's often true in people where we've got to look.

24 And so the fact that you've retained a law firm
25 doesn't mean a lawsuit's going to be filed. It doesn't even

1 mean a lawsuit's going to likely be filed.

2 THE COURT: But doesn't that go to the inferences the
3 Court could draw from that evidence or the weight given to the
4 evidence, not as to discovery?

5 MR. RUCKDESCHEL: Absolutely not. Absolutely not.
6 And there are two reasons why.

7 One, it's completely irrelevant under the analysis of
8 the Third Circuit in LTL 1, which says, the question here is,
9 is there an immediate financial distress? And so speculating
10 about things that might happen in the future is not part of
11 what this Court's proper analysis should be. So for the
12 purposes of the motion to dismiss, that's not the analysis that
13 Your Honor should be doing.

14 And the facts that could be hypothesized as, well, if
15 this happens and that happens and this happens, then there
16 would be another claim filed. And then if that claim gets
17 filed, and if that happens, this happens, and that happens, and
18 this happens, that's exactly the kind of inferential chain that
19 the Third Circuit said that's not on the table. That's not
20 what we do here.

21 So that's number one. It's not relevant and it's not
22 reasonably calculated to lead to the discovery of admissible
23 evidence.

24 But number two is what I went through a minute ago.
25 The fact that somebody hires my firm doesn't mean that I have

1 an expectation that I'm going to sue any particular defendant.
2 And there could be an exception to that, right. A lifelong guy
3 comes in from Pennsylvania and he worked for U.S. Steel his
4 entire career. And in Pennsylvania, you can sue the employer,
5 right. I'm pretty sure when that guy hires me, I'm going to
6 sue U.S. Steel. But that doesn't happen. That's a rare case
7 indeed.

8 And so the problem is the fact of retention means
9 nothing with respect to whether a claim is going to be filed.
10 It means nothing as to whether it's more likely than not that a
11 claim will be filed. It means nothing. It's just a piece of
12 nonsensical data that means nothing. In order for it to mean
13 something in this case, you have to take at least three more
14 inferential steps. And so that's just inherently speculative.

15 If somebody has, and this is the response I gave to
16 them, none of my clients have advised me that I should file a
17 claim against the debtor, right. That's what I responded, and
18 they accepted that. So that's fine. Okay.

19 THE COURT: All right.

20 MR. RUCKDESCHEL: So that's my answer, Judge.

21 THE COURT: All right. Thank you.

22 Let me move to Mr. Satterley.

23 MR. SATTERLEY: Good morning, Your Honor. I guess
24 good afternoon there on the East Coast, and I'm sorry to hear
25 that you've been under the weather and I hope you get well

1 soon.

2 THE COURT: Thank you.

3 MR. SATTERLEY: Let me echo some of what
4 Mr. Ruckdeschel has said, and I'm not going to be as long as he
5 is. He made very good points. But I want to start with
6 burdening Your Honor.

7 This is unduly burdensome that the debtor has brought
8 this to your -- put this burden upon you because it's basically
9 harassment. And they brought this to you claiming they've met
10 and conferred when they haven't. I served responses on
11 May 15th, responses and objections on behalf of my law firm and
12 I produced a document. I'll talk about the document in a
13 minute. But I haven't heard a single phone call. I've been in
14 court in the Valadez case every day for weeks. We've done
15 opening statements. We're putting on evidence against many J&J
16 and LTL attorneys, I don't know, 5, 6, 7 there.

17 And at no point in time did anybody say, hey, by the
18 way, Joe, you didn't adequately answer discovery. Nobody
19 picked up the phone and called me and said, you need to produce
20 some other document. So I don't even know what
21 letter -- supposedly, somebody from Jones Day wrote a letter to
22 me. I haven't seen it. I've been sort somewhere busy lately.

23 So I guess my point is, there's really not been any
24 meet and confer on this issue. And so for this emergency
25 motion advancing to today I think is just an attempt to harass

1 us and to burn the Court. So let me directly address the three
2 points -- the three items that counsel says my firm should
3 answer.

4 The total number of claims; the first item, the total
5 number of claims filed versus unfilled. In the response to the
6 discovery, I provide a letter dated April 20, 2023 to Ms.
7 Allison Brown and Alex Calfo.

8 I said, in light of Judge Kaplan's ruling today, at
9 today's hearing -- because Your Honor told us on April 20th, if
10 you intend to file lawsuit, let them know.

11 "In light of Judge Kaplan's ruling at today's
12 hearing, I write as a courtesy to inform you that Kazan firm's
13 clients will file lawsuits against Johnson and Johnson and
14 other protected entities, but not against LTL Management. Each
15 Complaint-Summons will be served through official channels.
16 The cases that will proceed immediately include at least the
17 following."

18 And I listed all the cases that we intend to file.
19 Any other case beyond that, is work-product privileged,
20 because, as Mr. Ruckdeschel said, we're investigating the
21 merits of the case.

22 And there's many cases that we investigate and decide
23 not to take, not to accept. My firm has a history, and Johnson
24 and Johnson knows this, that we represent some of the strongest
25 cases you could possibly imagine, you know, they have autopsies

1 or tissue digestions and exact ingredients are found in the
2 body, right next to the tumor. We're very, very particular
3 about the type of cases that we select to represent.

4 So any client that is not on this list is work-
5 product privilege. And I would reassert what Mr. Ruckdeschel
6 said about if an attorney, or if a client has retained us, that
7 doesn't mean we're actually going to file a lawsuit. We're
8 still -- the retain to investigate.

9 So the total number of unfiled claims is privileged
10 and to the extent that Your Honor's compels that type of privy
11 information, I'll have to seek Appellate relief because
12 there's, under no circumstances, am I to turn over privileged
13 information.

14 The second item that they sought is communications
15 that I may have had with other lawyers regarding this topic and
16 I asserted privilege as well.

17 Co-counsel privilege, I'm co-counsel with Mr. Maimon.
18 The motion I have represented cases against J&J for years. Any
19 communication I have with my co-counsel is privileged and I'm
20 not going to turn any of that over.

21 The final issue is, my opinion about financial
22 distress; my views about financial distress are not relevant.
23 And my opinion about the value of each of my cases is
24 privileged. Now, I did point out in the discovery that I have,
25 they already have the demand letters that I've made on

1 individual cases.

2 They already have what's called a 998 filing. A 998
3 in California is actual pleading-type documents that serve upon
4 the Defendants, so that when we win the case, if they don't
5 meet that, we could get costs. And they already have those.

6 So everything that I have that's not privileged has
7 been turned over and everything they're seeking is either
8 harassment or they're seeking privilege.

9 Final point, Your Honor. The focus at the Motion to
10 Dismiss is not on Joe Satterley or the Kazan law firm's thought
11 processes about the Debtor or Joe Satterley or Kazan law firm's
12 evaluation of each individual case, because I evaluate cases
13 and I have thought process, that's not the focus.

14 The focus is on the Debtor and the Debtor has
15 repeatedly said, in deposition, that they did no analysis, no
16 estimates of their liability. So that's got to be the focus on
17 the Motion to Dismiss, not on Joe Satterley's thought
18 processes.

19 And with that, I'll submit, Your Honor. I hope Your
20 Honor gets feeling better.

21 THE COURT: Thank you, Mr. Satterley.

22 Mr. Winograd?

23 MR. WINOGRAD: Thank you, Your Honor.

24 Mike Winograd from Brown Rudnick, again, on behalf of
25 the TCC. And, Your Honor, I will try not to tread ground

1 Your Honor did question the relevance of all of this.
2 And Your Honor did say, you know what, let's come back to this
3 after the Motion to Dismiss. And that's exactly what should
4 happen here.

5 With respect to the idea that the relevance that they
6 purport, things that the Debtor purports is a pretext. You
7 know, counsel says, well, we just asked ten people, but we
8 don't have to ask everyone.

9 If they really wanted to figure out who the entire
10 pool is, they would have sent discovery to all of the law
11 firms. They didn't. And these law firms, they say, well,
12 these ten law firms happen to have taken a leadership role.

13 These law firms did not sign PSAs. These law firms
14 did not file claimant lists with the PSAs. They didn't file
15 lists with the 2019. It's just completely apples to oranges.

16 And even the AHC apparently, Your Honor, has not
17 disclosed, its own members have not disclosed all of the
18 claims.

19 According to the recent testimony this week from Mr.
20 Nachawati, he thinks that the PSA is just an agreement to
21 agree, there are lots of issues to work out. He doesn't think,
22 or doesn't know, if the agreement is good for some claimants,
23 and not for others. And he does not believe that he even filed
24 or listed his mesothelioma claimants on his list.

25 This idea that we have to have the unfiled claimants

1 listed is betrayed by their own conduct.

2 Number 4, Your Honor, as counsel has said, so I won't
3 go back into it deeply, and let me just add to that other
4 point, counsel for -- I see the hand being raised by counsel
5 for the AHC, counsel for the AHC confirmed as much on the call
6 on Tuesday saying, yes, a plan is on file, but as I've said at
7 the last hearing, we don't necessarily agree with everything
8 that's in it and we're hard at work with the Debtors to try and
9 have an amended plan filed that we do agree with.

10 Next, Your Honor, with respect to the privilege
11 issue. A claim that has not been filed is privileged. The
12 only communications about it are between a client and its
13 counsel. It is privileged, it is off-limits.

14 There are no indicia of reliability. When somebody
15 determines to file a claim and goes ahead and files it, the
16 counsel is subject to Rule 11, has to do due diligence into the
17 merits of those claims. They are indicia of reliability.

18 The idea that you can ask an attorney, and to use the
19 words of counsel for the TCC, we're not asking how many claims
20 will be filed. We're just asking how many claimants have
21 sought counsel.

22 The idea that that is somehow not privileged and
23 subject to discovery would contradict every discovery principle
24 I'm aware of, Your Honor. I'm fairly certain that if I ask
25 White and Case, are there, you know, has J&J approached you

1 about any potential lawsuits; have they consulted you, whether
2 or not you've decided to file anything; is way out of bounds,
3 Your Honor.

4 The fact that, and this was in the briefing, that
5 some claimants have disclosed their unfiled claimants; the AHC
6 has filed some, apparently, not all. Certain firms have
7 responded by providing some does not impact the privilege or
8 decisions of anybody else.

9 Your Honor, on the \$8.9 billion being inadequate,
10 they asked for the basis. They were told by the TCC, we didn't
11 have anything non-privileged. The law firms, to the extent
12 that, you know, have given them answers, they apparently just
13 don't like the answers.

14 Again, damages analyses are privileged. There's not
15 much to ask about that that conceivably could be not
16 privileged, or already in the public or within the knowledge of
17 J&J.

18 And the same, Your Honor, is true with respect to the
19 questions about financial distress. The motion should be
20 denied because of the gamesmanship, Your Honor, and on its
21 merits, it fails as well. Thank you, Your Honor.

22 THE COURT: Thank you, Mr. Winograd.

23 Mr. Branham?

24 MR. BRANHAM: Good morning, Your Honor -- I guess
25 afternoon, now. I don't have a whole lot to say here, except

1 to simply join in what Mr. Satterley, Mr. Ruckdeschel and Mr.
2 Winograd already articulated.

3 You know, our firm is very similar to them in terms
4 of the types of cases that we take, to the case in-firm, an
5 entire analysis that we do.

6 And just because we're hired, doesn't mean we've
7 decided to file something. I will tell you that I repeatedly,
8 at least twice and maybe three times in my recollection,
9 reached out directly to counsel at Jones Day, asking them, help
10 me understand what the authority is for you to ask for this
11 stuff. It's privileged; what do you think is not privileged?

12 And the answer was, they are papers; not, let's have
13 a phone call. Not any of that. And then, you know, we're
14 dragged up here as a law firm and, by the way, Judge, I'm
15 admitted *pro hac* for a client in this, but not for my law firm.

16 So I just want to raise that because I don't want to
17 create a problem. But you know, the idea that this needed to
18 be done this fast, that it was effectively done, as you've
19 heard from others, without any meaningful meet and confer, and
20 really without any discussion at all or willingness to discuss
21 the privileged and work product issues.

22 I think at the end of the day, belies what this is
23 actually about, which is, they focused on people who drive hard
24 and maybe that they feel like are thorns in their side, as
25 opposed to any legitimate cases for discovery. And so, I would

1 certainly, on behalf of my law firm, which just all this was
2 directed to, and for the reasons stated by everybody else, ask
3 that you not (indiscernible).

4 THE COURT: Thank you, Mr. Branham.

5 Mr. Hansen?

6 MR. HANSEN: Thank you, Your Honor. Kris Hansen with
7 Paul Hastings on behalf of the Ad Hoc Committee. Your Honor, I
8 simply wanted to say one thing which was in response to the
9 gratuitous comments from Mr. Winograd about Mr. Nachawati which
10 really had nothing to do with this argument, but they seem to
11 not be able to resist at any point in time.

12 If they wanted to cite the full facts from the
13 deposition, Mr. Nachawati's got about 5,000 claimants on file
14 and they were apparently 50 mesos [sic] that weren't put in
15 there. So it's not relevant to this point, but I wanted Your
16 Honor to know that.

17 I also wanted to point out to the Court again that
18 we're the only party who has filed a 2019. If you look around,
19 you're hearing lawyers say, I represent multiple clients; I'm
20 appearing in the case; I'm making arguments in the case.

21 And notwithstanding Ms. Richenderfer's comments from
22 the last week about how she doesn't think everybody has to
23 suddenly comply with 2019, they do and they need to file those
24 2019 statements.

25 I don't have any thing else, Your Honor, I just

1 wanted to give you that factual background.

2 THE COURT: All right. Thank you.

3 Ms. Jones?

4 MS. JONES: Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 MS. JONES: Laura Davis Jones of Pachulski, Stang,
7 Ziehl and Jones. First, Your Honor, it's wonderful to see you
8 feeling well. It's good.

9 THE COURT: Thank you.

10 MS. JONES: Your Honor, just one quick comment. We
11 were referenced Arnold and Itkin was referenced earlier in the
12 hearing and, Your Honor, just because we did have that specific
13 reference, we wanted to make you knew I was listening and going
14 to respond.

15 Your Honor, after all the comments that have been
16 made, I have nothing further to add other than what the TCC has
17 already said, Your Honor. Thank you.

18 THE COURT: All right. Thank you.

19 Mr. Maimon?

20 MR. MAIMON: Good afternoon, Your Honor.

21 THE COURT: It's after noon; good afternoon.

22 MR. MAIMON: It is afternoon. I'll be brief. I
23 think that there's a disconnect here between the Jones Day
24 lawyers and the reality of practice as it exists outside of the
25 bankruptcy process.

1 My colleagues have explained the process that we go
2 through with regard to vetting claims and deciding what claims
3 are viable and what claims can be filed and the advice that we
4 give our clients about that, which are clearly privileged.

5 You know, Mr. Ruckdeschel talked about discovery on
6 lawyers as non-parties. We are non-parties. Interrogatories
7 and requests for production of documents are discovery vehicles
8 for parties.

9 We do accept the subpoena, because we recognize that
10 you can subpoena a non-party, but (indiscernible) asked for
11 documents. And then, I would just raise with Your Honor, Your
12 Honor asked the question of Mr. Ruckdeschel about well, what
13 about just talking about the number of people who have come in
14 your door, or the number of people who signed retainers; that
15 number doesn't exist outside of documents.

16 And it's not incumbent upon my firm to start doing
17 work and tabulating things. One of the things that we do is
18 that we investigate claims and we also assemble documents. We
19 have to be retained in order to be authorized to get medical
20 records for our clients.

21 We do get medical records for our clients. We give
22 the pathology reports that confirm whether or not they have the
23 disease that might be filed about.

24 This is in sharp contrast to what a lot of the PSA
25 partners of J&J have indicated in their depositions. We don't

1 have any confirmatory documents or pathology reports. I have
2 to get those.

3 Those are privileged. If a client decides not to
4 file a claim, it would be a HIPAA violation for me to start
5 turning those over. The Jones Day lawyers cite no authority,
6 none whatsoever, for discovery against lawyers as lawyers, as
7 opposed to discovery against parties.

8 And in fact, their application within their motion to
9 not file a memo of law is not, should not be taken by the Court
10 as the bravado that this is all simple, that they get what they
11 get.

12 It's a recognition, quite frankly, on their part,
13 that the law does not support them. As Mr. Satterley said,
14 I've litigated cases with him, as well as others who are the
15 subject of these motions for years.

16 And our communications about various issues are
17 communications as representatives of members of the committee.
18 Our communications with counsel for the TCC, they're privileged
19 and we shouldn't have to start talking about that.

20 Finally, with regard to the valuation of cases, the
21 subpoena talks about, you know, what is the average amount.
22 There is no average amount. That's not the way the ethical
23 rules that we have to live under require us to conduct
24 ourselves.

25 Each client has the authority to either accept or

1 reject an offer made to him or her and we cannot impose upon
2 our clients "average settlement values," and we don't approach
3 -- it would be a violation of our ethical rules to approach a
4 one size fits all categorization: you have this disease, this
5 is what you get.

6 That might be ultimately what happens in a bankruptcy
7 because it's imposed on people. It might be in other types of
8 situations where there's an administrative type of a program
9 where this is the amount that you get, whether it's a tax
10 credit or vouchers or what have you, but litigating our cases,
11 that is against the ethical rules.

12 Finally, with regard to the liability; liability is
13 not only, and the damages that a defendant owes is not simply,
14 a matter of the medical bills or the lost earnings that a
15 plaintiff has or even, quite frankly, the pain and suffering.

16 But the liability of a defendant is impacted also by
17 the strength of the case against it. And so, yes, for sure, I
18 have a lot of liability documents that J&J has produced to me,
19 but they produced them to me and they know them and it would
20 fill up Your Honor's courtroom more than it's already filled
21 with boxes, to have liability evidence against J&J.

22 But I also have my analyses of that in documents. My
23 analyses are privileged. They're work product. I have the
24 analyses that Mr. Satterley and I have worked together; those
25 are privileged.

1 the facts are work product and are privileged and should not be
2 produced.

3 But I wanted to raise my hand and add that there have
4 been comments made Mr. Torborg that the Plaintiff law firms
5 have not participated in this process in good faith, have not
6 looked for documents that might be responsive, that are non-
7 privileged.

8 And that's just not the case. In relation to
9 communication with other lawyers, communication with co-counsel
10 has been well-described, are privileged. But in the case of
11 communications with other lawyers that are non-privileged, I
12 can tell you from our firm's perspective, even though we're not
13 a party, even though we have not filed a Motion to Dismiss as a
14 firm, we took steps to make a good faith review and where there
15 was a communication that was not privileged, we produced it.

16 So to suggest somehow that there's been an improper
17 approach to this by Plaintiff's counsel I think is not accurate
18 and I just wanted to let the Court know that.

19 THE COURT: All right. Thank you.

20 Ms. Parfitt?

21 MS. PARFITT: Thank you, Your Honor. And I, again,
22 am glad that you're feeling better.

23 THE COURT: Thank you.

24 MS. PARFITT: Your Honor, points that have not been,
25 perhaps not been raised and discussed by others, but as Ms.

1 O'Dell indicated as well, we have taken any and all requests by
2 counsel quite seriously. That's how we handle all types of
3 requests.

4 We made a search of our files despite the fact that
5 we felt any of the requests the Defendants asked that we had
6 objected to were -- had some type of relevance.

7 We did not. I'm write down the road from Jones Day
8 and I would have been delighted to receive a request to meet
9 with them and talk with them. I suspect that would have been a
10 very short meeting, but to suggest that there was an offer,
11 there was not.

12 Also, with regard to investigation of our claims and
13 perhaps very relevant to what we will see down the road -- what
14 our firm does, like all other firms, most of the firms on this
15 recording today is do an investigation of their claims so that,
16 in this particular case, as it pertains to ovarian cancer
17 cases, what we do file are epithelial ovarian cancer cases,
18 cases that are supported by the science and supported by the
19 Daubert ruling of the Honorable Judge Wolfson.

20 So that does take time, and just because someone
21 retains the law firm of Ashcraft & Gerel does not mean -- we
22 ultimately make an assessment that there is this one that need
23 to be filed.

24 And so, those discussions, those investigations are
25 all highly confidential and privileged until such time as a

1 case is filed.

2 And then, at the time the case is filed, that's
3 public and available to LTL and any other Defendant in this
4 case.

5 As to the other requests with regard to the 8.9 and
6 any comments, I agree with Mr. Ruckdeschel and others. I'm
7 sure we are all quite opinionated on 8.9 and when given the
8 opportunity, would love to share those opinions with regard to
9 that type of evaluation of these serious claims and a number
10 that would be so minimal in its ability to compensate these
11 clients.

12 But that said, any and all those types of
13 communications are indeed privileged and are indeed work
14 product, as are the financial distress analysis that we, or any
15 other clients, would make.

16 But I just wanted to, I felt compelled to say, as
17 we've heard quite a bit, the firms that have spoken, the TCC
18 whose opposition we do in fact embrace, I think have been very
19 clear with regard to the type of investigation to make and the
20 seriousness with which we respond to any requests, not only at
21 the Court, but frankly, of counsel.

22 This matter involves women that are dying, women that
23 have died. And to suggest we would do anything less than that,
24 is an insult. Thank you, Your Honor.

25 THE COURT: Thank you.

1 Mr. Molton?

2 MR. MOLTON: Yes, Your Honor. I didn't expect to
3 speak, but I got a call from Ms. Lisa Busch of the Weitz
4 Luxenberg firm who unfortunately, for whatever reason is not
5 appearing.

6 She had her hand up, but apparently, she's not within
7 the webinar. So she just asked me lest, Your Honor, as you
8 review the documents, to relay to you that they did file a
9 response last night in opposition and she stands on it for the
10 Weitz Luxenberg firm, as well as the statements made by other
11 colleagues as well as by the TCC and refers you to the fact
12 therein that, as well, they were not properly served.

13 So that's all I have to do, Judge. I'm just
14 transmitting that from the Weitz Lux firm who, through whatever
15 miscommunication was not on the webinar. Thank you, Your
16 Honor.

17 THE COURT: No problem. I did receive their
18 submission and I hope your daughter's program or event went
19 well.

20 All right.

21 MR. MOLTON: Your Honor, thank you so much.

22 THE COURT: Yup.

23 MR. MOLTON: Thanks so much for the courtesy of
24 extending this.

25 THE COURT: No problem.